Remarks

Reconsideration of this Application is respectfully requested.

Claims 1-42 are pending in the application, with claims 1, 7, 15, 16, 23, 24, 29, and 30 being the independent claims. Applicants reserve the right to prosecute similar or broader claims, with respect to any cancelled and amended claims, in the future.

Based on the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding rejections and that they be withdrawn.

Rejection under 35 U.S.C. § 112

At page 4 of the Office Action, the Examiner rejected claim 41 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. Applicants respectfully traverse this rejection.

At page 4 of the Office Action, the Examiner states that "[t]here does [not] appear to be any disclosure for . . . '*receiving supplemental evidence verifying the attributes of the access candidate* . . . [t]he term 'supplemental' does not appear in the specification or the original claims." Applicants respectfully disagree.

Pursuant to M.P.E.P § 2163, e.g., §2163(III)(A), the Examiner has failed to establish a prima facie case under 35 U.S.C. §112, first paragraph, that the instant specification does not include adequate written description to support the claimed features. This is because the Examiner has failed to meet the initial burden of rebutting the presumption that the written description is adequate by presenting by a preponderance of evidence why a person skilled in the art would not recognize in an applicant's disclosure a description of the invention defined by the claims. See, e.g., *In re Wertheim*, 541 F.2d 257, 263, 191 U.S.P.Q. (BNA) 90, 97 (CCPA 1976). For example, the Examiner has not, in rejecting the claims, set forth express findings of fact regarding his analysis that supports the lack of written description conclusion.

The M.P.E.P. states at § 2163: "[t]o satisfy the written description requirement, a patent specification must describe the claimed invention in sufficient detail that one skilled in the art can reasonably conclude that the inventor had possession of the claimed invention. See, e.g., Moba, B.V. v. Diamond Automation, Inc., 325 F.3d 1306, 1319, 66 USPQ2d 1429, 1438 (Fed. Cir. 2003); Vas-Cath, Inc. v. Mahurkar, 935 F.2d at 1563, 19

USPQ2d at 1116 . . . The examiner has the initial burden, after a thorough reading and evaluation of the content of the application, of presenting evidence or reasons why a person skilled in the art would not recognize that the written description of the invention provides support for the claims. There is a strong presumption that an adequate written description of the claimed invention is present in the specification as filed, Wertheim, 541 F.2d at 262, 191 USPQ at 96."

The Specification describes claim 41 in sufficient detail that one skilled in the art can reasonably conclude the inventor had possession of the claimed invention. For example, the Specification recites at paragraph [0045]: "[t]he resolution authority 320 may consider the access requirements, access candidate attributes, and additional information (such as an indication of the need for access) and may request additional information in deciding whether to grant or deny, in whole or in part, authorization."

Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the 35 U.S.C. § 112, first paragraph, rejection of claim 41 and pass this claim to allowance.

Rejections under 35 U.S.C. § 103

Claims 1-4, 7-10, 14, 16-19, 24-26, 29-33, and 37-40

At page 5 of the Office Action, the Examiner rejected claims 1-4, 7-10, 14, 16-19, 24-26, 29-33, and 37-40 under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent Number 6,041,412 to Timson *et al.* ("Timson") in view of U.S. Patent Number 6,959,336 to Moreh *et al.* ("Moreh") and further in view of U.S. Patent Number 6,839,843 to Bacha *et al.* ("Bacha"). Applicants respectfully traverse this rejection and the "Response to Arguments" section on pages 2 and 3 of the Office Action.

The combination of Timson, Moreh, and Bacha does not teach or suggest each and every feature of independent claims 1, 7, 16, 24, 29, and 30. As explained in M.P.E.P. § 2143.03, "[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art." To establish prima facie obviousness of a claimed invention, *all the claim features must be taught or suggested by the prior art*. *See In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). The Board of Patent Appeals and Interferences has stated that a proper obviousness determination requires

that an Examiner make "a searching comparison of the claimed invention – including all its limitations – with the teaching of the prior art." *See In re Wada and Murphy*, Appeal 2007-3733, citing *In re Ochiai*, 71 F.3d 1565, 1572 (Fed. Cir. 1995).

Neither Timson, Moreh, nor Bacha, alone or in combination, teaches "submitting . . . a request for authorization ... ***in response to a comparison*** . . . ***that indicates that access . . . by the access candidate is prohibited***" as recited by claims 1, 7, 24, 29, and 30 (emphasis added) or "means for submitting a request for authorization to a resolution authority . . . ***if the second comparison indicates that access to the electronic data by the access candidate is prohibited***," as recited by claim 16 (emphasis added).

In Timson, "[a] security scheme is set up via a controller module or card . . . [w]hen initially setting up a security scheme, the controller card is programmed to have data or permissions which authorize all data operations . . . [t]his data is stored on the controller module using a suitable desired encryption scheme which is implemented using a plurality of encryption keys . . . [a]fter storing data on the controller module, other types of modules such as enabling modules and interrogatable modules can be made from the controller module." (Timson, col. 4, lines 33-36.)

The system in Timson uses "two secure data modules which contain security data and other information" and "a dual module reader for reading data and permissions contained on the secure data modules." (Timson, col. 2, lines 14-21.) Timson states that "[t]he two secure data modules include an enabling module and an interrogatable module." (Timson, col. 2, lines 21-22.) Timson further states that "[t]he interrogatable module is either physically inserted into the dual module reader or brought into contactless communication with the dual module reader." (Timson, col. 2 line 66- col. 3, line 1.)

Timson states that "[i]nitially, there is a 'handshake' procedure by which the dual module reader determines whether the enabling card and interrogatable card can interface or communicate . . . [t]he ability to interface is determined based on whether the enabling module and the interrogatable module belong to the same security scheme defined by encryption keys . . . [a]fter the initial handshake is successful, the interrogatable module and interrogatable module reader transmits a challenge to the enabling module via the enabling module reader to determine whether the enabling

module is authorized to perform data operations to the data contained on the interrogatable module." (Timson, col. 3, lines 11-21.)

Timson discloses that "[i]f it is determined that the enabling module *does not have the appropriate permissions* to perform data operations on the interrogatable module data, the response from the enabling module is negative and *no data communication is allowed*. *In contrast, if the enabling module does have appropriate permissions* to perform the requested data operations on the interrogatable module data, the enabling module and the enabling module reader send a challenge to the interrogatable module to determine if the holder of the interrogatable module has appropriate authority to conduct the requested data operations on that particular interrogatable module" (emphasis added). (Timson, col. 3, lines 29-40 (emphasis added).)

Timson further states that "[a]fter the authority of the holder of the interogatable module has been established, the enabling module reader and enabling module will issue a request for data to the interrogatable module to determine if the data which is contained on the interrogatable module and which is required to perform the data operation requested by the holder of the interrogatable module can be accessed by the enabling module . . . [t]he interrogatable module will respond to the request from the enabling module by issuing a challenge to the enabling module via the enabling module reader to determine whether the permissions stored on the enabling module allow the enabling module to access the requested data stored on the interrogatable module . . . *[i]f the enabling module does not provide the necessary premissions data* in the form of a response to the challenge, *the interrogatable module reader and interrogatable module prevent the requested data from being accessed* by the enabling module and enabling module reader" (emphasis added). (Timson, col. 3, line 57 - col. 4, line 15.)

At page 5 of the Office Action, the Examiner states, to which Applicants do not acquiesce that "Timson discloses . . . submitting . . . a request for authorization in response to a comparison that indicates that access by the access candidate is prohibited" and cites passages from Timson. None of the passages from Timson cited by the Examiner, nor any other part of Timson, alone or in combination with Moreh and/or

Bacha, teaches at least the above-noted distinguishing features of independent claims 1, 7, 16, 24, 29, and 30.

For example, Timson states at col. 3, lines 34-40:

In contrast, if the enabling module does have appropriate permissions to perform the requested data operations on the interrogatable module data, the enabling module and the enabling module reader send a challenge to the interrogatable module to determine if the holder of the interrogatable module has appropriate authority to conduct the requested data operations on that particular interrogatable module.

The above-cited passage of Timson does not teach or suggest "submitting . . . a request for authorization . . . ***in response to*** *a comparison* . . . *that indicates that access . . . by the access candidate is prohibited*" as recited by claims 1, 7, 24, 29, and 30 (emphasis added) or "means for submitting a request for authorization to a resolution authority ... *if the second* <u>*comparison indicates*</u> *that access to the electronic data by the access candidate is* <u>*prohibited*</u>," as recited by claim 16 (emphasis added). Rather, the "enabling module" in Timson "send[s] a challenge" "if the enabling module *does* have appropriate permissions" (emphasis added). (Timson, col. 3, lines 34-40.)

Further for example, Timson states at col. 3, lines 57-64:

After the authority of the holder of the interrogatable module has been established, the enabling module reader and enabling module will issue a request for data to the interrogatable module to determine if the data which is contained on the interrogatable module and which is required to perform the data operation requested by the holder of the interrogatable module can be accessed by the enabling module.

The above-cited passage of Timson does not teach or suggest "submitting . . . a request for authorization . . . ***in response to*** *a comparison* . . . *that indicates that access . . . by the access candidate is* <u>*prohibited*</u>" as recited by claims 1, 7, 24, 29, and 30 (emphasis added) or "means for submitting a request for authorization to a resolution authority . . . *if the second* <u>*comparison indicates*</u> *that access to the electronic data by the access candidate is* <u>*prohibited*</u>," as recited by claim 16 (emphasis added). Rather, the "enabling module reader and enabling module" in Timson "will issue a request for

data" "[a]fter the *authority of the holder of the interrogatable module has been established*" (emphasis added). (Timson, col. 3, lines 57-64.)

> Further for example, Timson states at col. 4, lines 7-11:
>
> The enabling module may respond to the challenge from the interrogatable module by transmitting the permissions data indicating that the enabling module is authorized to access the requested data from the interrogatable module.

The above-cited passage of Timson does not teach or suggest "submitting . . . a request for authorization . . . *in response to a comparison . . . that indicates that access . . . by the access candidate is prohibited*" as recited by claims 1, 7, 24, 29, and 30 (emphasis added) or "means for submitting a request for authorization to a resolution authority . . . *if the second comparison indicates that access to the electronic data by the access candidate is prohibited*," as recited by claim 16 (emphasis added). Rather, in Timson, the "interrogatable module . . . issu[es] a challenge to the enabling module" "[a]fter the authority of the holder of the interrogatable module has been established" and in "respon[se] to a request from the enabling module," and the "enabling module" in Timson "respond[s] to the challenge." (Timson, col. 3 line 57 - col. 4, line 11.) Further, Timson states that [i]f the enabling module *does not provide the necessary permissions data* in the form of a response to the challenge, the interrogatable module reader and interrogatable module *prevent the requested data from being accessed* by the enabling module and enabling module reader" (emphasis added). (Timson, col. 4, lines 11-15.)

At pages 2 and 3 of the Office Action, under "Response to Arguments," the Examiner states, to which Applicants do not acquiesce, that "Timson . . . discloses that modules must belong to the same security scheme in order to communicate with each other . . . [o]therwise, the encryption keys utilized by a particular security scheme do not allow communications with modules that are not part of the same security scheme . . . [t]he security scheme is setup by the controller module . . . [w]ithout a successful authorization comparison (a match), access is not permitted."

Even assuming *arguendo* that "[w]ithout a successful authorization comparison (a match), access is not permitted," to which Applicants do not acquiesce, Timson does

not teach or suggest "submitting . . . a request for authorization . . . *in response to a comparison . . . that indicates that access . . . by the access candidate is prohibited*" as recited by claims 1, 7, 24, 29, and 30 (emphasis added) or "means for submitting a request for authorization to a resolution authority ... *if the second comparison indicates that access to the electronic data by the access candidate is prohibited*," as recited by claim 16 (emphasis added).

Further, Timson teaches that "[i]f it is determined that the enabling module *does not have the appropriate permissions* to perform data operations on the interrogatable module data, the response from the enabling module is negative and *no data communication is allowed*" and "*[i]f the enabling module does not provide the necessary premissions data* in the form of a response to the challenge, *the interrogatable module reader and interrogatable module prevent the requested data from being accessed* by the enabling module and enabling module reader" (emphasis added). (Timson, col. 3, line 57 - col. 4, line 15 and col. 3, lines 29-40.)

At page 6 of the Office Action, the Examiner states, to which Applicants do not acquiesce, that Moreh teaches "a resolution authority" and that Bacha teaches "configured to modify the one or more access requirements." However, the Examiner does not use Moreh or Bacha to teach, nor do they teach, at least the above-noted distinguishing features of claims 1, 7, 16, 24, 29, and 30. Therefore, Moreh and Bacha cannot be used to cure the deficiencies of Timson. Thus, the applied references cannot be used to establish a prima facie case of obviousness for claims 1, 7, 16, 24, 29, and 30.

Accordingly, Applicants respectfully request the Examiner to reconsider and withdraw the 35 U.S.C. § 103(a) rejection of claims 1, 7, 16, 24, 29, and 30 and to pass these claims to allowance. Additionally, at least based on their respective dependencies to claims 1, 7, 16, 24, and 30 claims 2-4, 8-10, 14, 17-19, 25, 26, 31-33, and 37-40 should be found allowable over the applied references, as well as for their additional distinguishing features.

Claims 5, 6, 11-13, 15, 20-23, 27, 28, 34-36, 41, and 42

At page 16 of the Office Action, the Examiner rejected claims 5, 6, 11-13, 15, 20-23, 27, 28, 34-36, 41, and 42 under 35 U.S.C. § 103(a) as allegedly being unpatentable

over Timson in view of Moreh and further in view of Bacha and U.S. Patent Application Publication Number 2004/0049687 to Orsini *et al*. ("Orsini"). Applicants respectfully traverse this rejection and the Response to Arguments on pages 2 and 3 of the Office Action.

Timson discloses an "interrogatable module" and an "enabling module" that "communicate with each other via a dual module reader." (Timson at col. 2, lines 31 and 32.) Timson further discloses that "[t]he interrogatable module and interrogatable module reader transmit a *challenge to the enabling module* via the enabling module reader to determine whether the enabling module is *authorized* to perform data operations to the data contained on the interrogatable module." (Timson, col. 3, lines 11-16 (emphasis added).) Timson also teaches that "[i]f the enabling module does have appropriate permissions to perform the requested data operations on the interrogatable module data, the enabling module and the enabling module reader send a *challenge to the interrogatable module* to determine if the *holder* of the interrogatable module *has appropriate authority* to conduct the requested data operations on that particular interrogatable module." (Timson, col. 3, lines 34-40.)

Thus, Timson does not teach "receiving … a request for access to the first security level," as recited by claim 15 or "a resource access controller configured to grant access to the one or more resources, in response to a request for access to the one or more resources," as recited by claim 23. Rather, Timson discloses that a "*challenge*" is sent "*to the interrogatable module to determine if the holder of the interrogatable module has appropriate authority* to conduct the requested data operations." (Timson, col. 3, lines 34-40.)

At page 17 of the Office Action, the Examiner states, to which Applicants do not acquiesce, that Ornisi teaches "wherein one or more access requirements are related to at least one of a citizenship status of the access candidate or a currently location of the access candidate." However, the Examiner does not use Ornisi to teach, nor does it teach, at least the above-noted distinguishing features of claims 15 and 23. Therefore, Ornisi cannot be used to cure the deficiencies of Timson, Moreh, and Bacha. Thus, the applied references cannot be used to establish a prima facie case of obviousness for claims 15 and 23.

Accordingly, Applicants respectfully request the Examiner to reconsider and withdraw the 35 U.S.C. § 103(a) rejection of claims 15 and 23 and to pass these claims to allowance. Additionally, at least based on their respective dependencies to claims 1, 7, 16, 24, and 30, claims 5, 6, 11-13, 20-22, 27, 28, 34-36, 41, and 42 should be found allowable over the applied references, as well as for their additional distinguishing features.
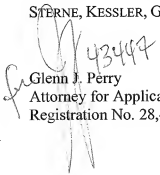
Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Reply is respectfully requested.

Respectfully submitted,

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